192 8

Department of Bd of Inl Rev

OFFICE Sep. Rev

STATION Chepauk

R No. 168

Mis

Dated 15/5/28

Notes seen by C

P
16/5

Date 11 25 Initial.

Given for copying

Copied 16/5

Examined

Signed

Given for despatch

Despatched

Indexed

To be destroyed on*

DESPATCHED
15 MAY 1928

Pages in the file

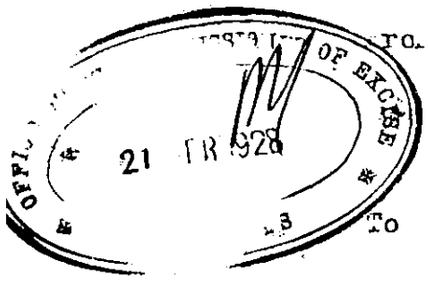
(SUBJECT.)

Stamps. Adjudication — Conveyance
Consideration undeterminate South

*Not to be filled in in the case of permanent records.

South Kanara Collector's Office,

Camp, Mangalore, dated 17-[illegible]-28.



MIS 440

C. C. Lamont, Esquire, I.C.S.,

Collector of South Kanara

The Secretary to the Board,

Senior te Revenue,

Madras.

Sir,

Stamp Act - Adjudication under section 31 (1) - Production of documents - Reference to Board under Section 56 (2)

****

Mr. C.H. Morgan of Mangalore has produced before me 3 documents with the request that I should adjudicate them under section 31 (1) of the Stamp Act. Except for the amount of consideration and the names of conveyors all the three deeds are [illegible] in all

2. The documents appear to be (1) deeds of dissolution of partnership payable with a duty of Rs 10. and (2) conveyance There is however some difficulty in fixing the duty to be pai on the documents as conveyances because in none of the three documents has the amount of the consideration been determined but consists in part of certain sums of money and in part [illegible] of the profits of the business to be conveyed which may accrue during the next three years. And there is a further condition under which the conveyors will become entitled to [illegible] consideration should the undertaking [illegible]

[illegible] the said documents the [illegible] [illegible] to the adjudication.

Your obedient servant,

H Sambasiva Rao

for Collector.

G.F. 16—5,84,259—17-12-31. (6)

OFFICE NOTE.

AS
S
M32

SUBJECT Stamps. Adjudication - Conveyance Consideration indeterminate.

From The Collr of S. Kanara

C Register No. 440 mis/28

The three documents at (A), (B) & (C) were submitted by the party to the Collr of S. Kanara for adjudication of stamp duty under Section 31 of the Stamp Act. The Collr seeking direction as how these documents should be treated for purposes of stamp duty has referred the matter for Bd's ruling under Sec 56 (2) of the Stamp Act.

29 St Manual

145 St Manual

These three documents are of the same variety & are drawn on similar lines. Each of them is styled as Conveyance for 1) Rs 9458-5-0 2) Rs 9458 & 3) Rs 19000/- It is submitted that it will be enough for the purpose on hand

wp

of one of the Documents is required in detail.

Document at (A) is written Stamp papers worth Rs 142-8-0. This presents the advalorem Duty payable under Art 19 Schedule I-A of the Stamp Act ie Conveyance for a Consideration - Rs 94588-8-0. The parties evidently wishes the deed to be one of Conveyance by. It seems to be in addition a Dissolution of partnership as the Vendor was one of the partners of J. H. Morgan Sons Clause (a) on p 4 of the deed also contemplates the distribution & receipt profits. As according to clause 7 of section 253 of the Indian Contract Act X of 1872 "if from any cause whatsoever any member of a partnership ceases to be so, the partnership is dissolved as between all the other members, the Document should be viewed also as a dissolution of partnership falling under Art 39, B Sch I-A for a precedent please see BP R 282 wis Dr 18.10.25 (D)

Clauses (a) & (b) of the deed Conveyance Clause (e) has a bearing Dissolution of Partnership & the next

10 of C.S. No 26 on p 143 S.M

William Charles Gordon Smith

* Will be put up if required.

1947 C.S. No 26 - p/143 St Manual

A/M34

question is how | Clause (7)+(8) to be treated for purposes of Stamp Duty these Cases the amount of Considera Cannot be estimated. In Cases whe the Subject matter is indeterminat

Stamp Manual

Section 26 of the Stamp Act will be applicable According to it the par has the option to estimate the Consideration & pay Stamp Duty. Th party will be well advised to approximately but nonetheless Cou estimate the value as "the person

S.212 of Jagannatha Ayyar's Stamp Act puts

putting a document liable to optional Stamp in evidence Cann recover upon it more than wha the optional Stamp Covers notw -standing the admission of Civil by the defendant for a Compro or orders whether the Court may be informed that a Deeds evidence Dissolution of Partnership & Conveyance & u in Cases where the Subject matt

S.26 - Stamp Manual

is indeterminate Section 26 of th Stamp Act will apply. The Court may also warn the parties of th risk which they will run if th discretion is not used by them estimating the Consideration

Clauses (C) & (d) of the preamble

I take it that the whole doc Sh? be treated as a dissolution of partnership & not a Conveyance. If this is intended

Rs 7528 10A 7/5/20

85% adm Ch

10/5

AS
S
AM

Note Continued

these seem to be instruments Comprising or relating to several distinct matters & therefore under Sec 5 of the Stamp Act shall be Chargeable with the aggregate Amount of the duties with which Separate instruments each Comprising or relating to one of such matters, would be Chargeable. The documents are stated as Conveyances. For instance the deed at (A) is mentioned to be a "Deed of Conveyance for Rs 945-8-5-0". This represents the total of the sums mentioned in Covenants (a) & (b) on pp 3-4 (A) This amount has been treated by the party as the Consideration for the Conveyance & he has written the deed on Stamp papers of the Value of Rs 142-8-0. The party seems to feel no doubt as to the nature of the document so far. It is therefore for consideration of the deed is anything in addition to its being

1333-5-0
8125-
945-8-5-0

S. Duty Rs 15 per Rs 1000 Conveyance rate

*) The substance of this provision is given on p 2 above

a Conveyance
of the Contracts ~~etc~~ ~~and~~ ~~evidence~~
a Dissolution of Partnership Deed &
Cobn is also of this opinion The Cases
are Similar So far to the one
disposed of in BP R 282 wide Dr 18.6.
from which it appears that deed
of this type Should be treated both
as Conveyance & Dissolution of
Partnership ~~and~~ application of the
ruling to the Cases under Consider
whole results ~~in~~ the petitioners liable
to pay a further Sum of Rs 107- in
each of the Cases of (A), (B) & (C)

Besides this the par
may have to be told that Sec 26
will be applicable to the consid
C & D of the preamble of the deed
—For orders

12/5/29.

PB
11/5

The deed is both a dissolution of partnership
& a Conveyance - The party has stamped it
a deed of Conveyance only. The Coll. may
be told that he has to collect the ex-cess duty leviable
under Sec 26 of the Stamp Act
~~the party insists~~ Where the value of the
Subject matter of the instrument is not Specifically entered in or cannot be
ascertained from the
deed, the party may be asked to Stat

(C) f para 2

(D)
This also relates to the transfer of certain rights in J. H. Morgan & Sons to Mr. Charles Hunnisett Morgan

X Duty on a Dissolution of Partnership

f 25- 26 Stamp Manual

the approximate amount that would accrue
to him as profits & then charge duty
on it ad valorem (at Convergence rate)

RM 25/8

Right

135 7/8

C.F. 15—14,15,300—22-8-27

DRAFT FOR APPROVAL.

Enclosures. Do which attached

Despatch No.

When given to fair copying

Fair-copied by

Fair -copy compared by

When despatched

Office.

C[1] Register No. 440 dated 1928

From the Collector of South Kanara

R.O.C.-3100-28-B4 8/1/4/28

Subject.

Stamps - Adjudication - Conveyance - Consideration to determinate - South Kanara Dt.

THE

Resolution

(A) (B) & (C)

The deeds received from the Coll. of South Kanara are herewith returned Each one of them should be charged to Stamps duty both as a dissolution of partnership & a Conveyance

2/ The Collector is also informed that under Section 26 of the Stamp Act where the value of the Subject matter is not Specifically entered in or cannot be ascertained from the deed, the party may be asked to state the

approximate

pproximate amount that would accrue to him a profits etc and that he should charge duty ad valorem on the Consideration at Commencement rate He may also warn the parties of the risk which they will run if sufficient discretion is not used in estimating the Consideration of the indeterminate portion of the deeds as Courts have held that the person putting a document liable to Optional Stamp on it cannot recover upon it more than what the optional stamp Covers

15/5 .5208 15/5/28

8/157

DESPATCHED
18 MAY 1928

To

The C.R.W. of South Kanara
(With 3 deeds sent)
(Process by Regd Post)

16 MAY 1928 R.O.C. No. 3100-28-B4

South Kanara Collector's Office,
Mangalore, 14th May 1928.

From

C. G. Herbert, Esquire, I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Separate Revenue,
M a d r a s.

Sir,

Stamp Act - Adjudication under Section 31 (1) - Production of documents - Reference to Board under Section 56 (2).

******

This office reference R.O.C. 3100-28, dated 17th April 1928.

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I solicit early orders on the above reference as Mr. Morgan states that the documents will be time barred for registration in a few days.

Your obedient servant,

For Collector.

M.D'S.14/5.

Sir

Orders have already issued in BP 12 168 vide D/15.5.28. This may be filed with the BP.

22/5.